

REMARKS

SUMMARY

Claims 1-8, 11-13, 30-35, 37-48 and 51-53 were rejected in the present Final Office Action. Claims 1, 30, and 41 are amended in this paper. Reconsideration of the application is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In “Claim Rejections – 35 USC § 103” on pages 2 of the present Final Office Action, claims 1-8, 11-13, 30-35, 37-48 and 51-53 were rejected under 35 USC § 103 (a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2005/009165 (hereinafter Lektion) in view of U. S. Patent No. 6,256,775 (hereinafter Flynn).

The Examiner presented a new ground of rejection against claim 1 by citing Lektion in view of Flynn. In particular, the Examiner stated that Lektion discloses all elements of claim 1 except the dynamic application characterization database. Flynn, in particular, col. 10, lines 19-49 of Flynn, was then cited to cure the deficiency of Lektion.

In response, Applicants first submit that Flynn fails to teach or suggest “a dynamic application characterization database storing information regarding mutable characteristics of the application” as recited in amended claim 1.

Flynn discloses a method for monitoring performance of an application or a system program executed by a multithreaded processor arranged and configured to process a plurality of threads and facilitate thread switch. The cited portion of Flynn discloses that there may be a processing thread and a monitoring thread. The monitoring thread may monitor and record selected events of the processing thread and the recorded information may be further processed or analyzed. Even if we assume *arguendo* and *hypothetically* that the recorded information of the selected events could be read as a dynamic application characterization database, the cited portion or even the entire passage of Flynn fails to teach or suggest that the recorded information is “regarding mutable characteristics of an application” as recited in claim 1.

Lektion cannot cure such deficiency of Flynn, because the Examiner admitted the Final Office Action that Lektion fails to disclose anything of the “dynamic application characterization database” in claim 1.

Moreover, notwithstanding the above deficiency of Flynn, Applicants submit that the combination of Lektion and Flynn fails to teach or suggest that "...the static application characterization database is included with the dynamic application characterization database..." as recited in amended claim 1.

On page 3 of the Final Office Action, the Examiner cited paragraph [0022] of Lektion as teaching the "static application characterization database" in claim 1. This cited portion of Lektion discloses that the definition of a process includes the information of required resources for executing the process. Even if we assume *arguendo* and *hypothetically*, that the definition of a process in Lektion can read on the "static application characterization database" in claim 1, and the recorded information of selected events in Flynn can read on the "dynamic application characterization database" in claim 1, there is no teaching or suggestion in either of the cited references that the definition of a process in Lektion could be included with the recorded information of selected events in Flynn.

Accordingly, Applicants submit that the combination of Lektion and Flynn fails to establish a *prima facie* case of obviousness to reject claim 1 under 35 USC §103(a).

Amended claims 30 and 41 contain generally similar recitations to claim 1. Therefore, for at least similar reasons set forth for claim 1, Applicants submit claims 30 and 41 are also patentable over Lektion in view of Flynn under 35 USC §103 (a).

Claims 2-8, 11-13, 31-35, 37-40, 42-48 and 51-53 depend from amended claim 1, 30 or 41, incorporating their recitations respectively. Therefore, for at least similar reasons set forth for the corresponding independent claims, Applicants submit that claims 2-8, 11-13, 31-35, 37-40, 42-48 and 51-53 are patentable over Lektion in view of Flynn under 35 USC §103 (a).

CONCLUSION

In view of the foregoing, reconsideration and allowance of pending claims are solicited. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 381-8819. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
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